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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,735	07/21/2005	Ingo Kalliske	076326-0296	6845
22428	7590	01/08/2009	EXAMINER	
FOLEY AND LARDNER LLP			TO, TOAN C	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW				
WASHINGTON, DC 20007			3616	
MAIL DATE		DELIVERY MODE		
01/08/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,735	<b>Applicant(s)</b> KALLISKE ET AL.
	<b>Examiner</b> TOAN C. TO	<b>Art Unit</b> 3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 08 October 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 38-46 and 64-67 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 38-46 and 64-67 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 19 January 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 38-42, 44-46 and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP-2000108824 in view of Curry et al (U.S. 6,923,483)

3. With respect to claims 38 and 64, JP-2000108824 discloses a device for protecting a person outside a motor vehicle comprising: at least one gas generator (10), and an airbag (1) positioned to inflate to a position outside of the motor vehicle; wherein the airbag (1) includes a contact region (lower edge of the inclined airbag wall 4) for making first contact with the person, the contact region being positioned in a lower region of the airbag (1) in relation to the motor vehicle and at a greater distance from a body of the motor vehicle perpendicular to the vertical axis of the motor vehicle than other regions of the airbag, wherein the airbag includes an impact surface (4) adjoining the contact region for receiving a person after the first contact.

4. JP-2000108824 discloses every element of the invention as discussed above except that the device comprising at least one sensor for detecting factors influencing impact kinematics such that the stiffness of the impact surface of the airbag is modified on the basis of the detected factors influencing the impact kinematics.

5. Curry et al teaches the invention wherein the protection device comprising at least one sensor (34) for detecting factors influencing impact kinematics such that the stiffness of the impact surface of the airbag (22) is modified on the basis of the detected factors influencing the impact kinematics.

6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protection device of JP-2000108824 by using the teaching of Curry et al in order to timely protect the pedestrian upon collision with the vehicle.

7. With respect to claims 39-42, JP-2000108824 discloses a device, wherein the impact surface (4) is inclined with respect to a plane running perpendicular to the vertical axis of the vehicle; wherein the impact surface (4) rises counter to a direction of travel; wherein the airbag is formed essentially in the shape of a wedge; wherein the airbag has at least two chambers (the airbag 1 made up of dividing the inner part into four separated rooms with three partition walls 1a) which can be pressurized to different extents.

8. With respect to claims 44-46, JP-2000108824 discloses a device, wherein the contact region (lower edge of the inclined airbag wall 4) is arranged essentially on a plane below the center of gravity of the person located outside the motor vehicle; wherein the airbag (1) is arranged in a front region of the vehicle; wherein the airbag, when not in use, is accommodated in a bumper and/or a protective strip (8).

9. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP-2000108824 and Curry et al and further in view of JP-06239198.

10. The combination of JP-2000108824 and Curry teaches every element of the invention as discussed above except that each of the chambers is assigned at least one gas generator.

JP-06239198 teaches an airbag (as best seen in figure 7) comprising a plurality of chambers (72); wherein, each of the chambers (72) is assigned at least one gas generator (70). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the airbag device of JP-2000108824 by using the teaching of JP-06239198 in order to effectively control inflation gas into each of the chambers for protecting the pedestrian upon impact.

***Response to Arguments***

11. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C. To whose telephone number is (571) 272-6677. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Toan C To/  
Primary Examiner, Art Unit 3616  
January 5, 2009